



Acts and Laws

Passed by the Great and General Court or Assembly of His Majesty's Province of the *Massachusetts-Bay* in *New-England* : Begun and held at *Boston* upon Wednesday the twenty-fifth Day of *May* 1748, and continued by Prorogation and Adjournments to Wednesday the twenty-first Day of *December* following, and then met.

CHAP. IX.

An Act for Inquiring into the Rateable Estate of the Province.

WHEREAS the Rateable Estate of the several Towns in this Province, may be very much altered since the last Valuation taken by this Court : Preamble.

Be it enacted by the Governour, Council and House of Representatives, That the Assessors of each Town within this Province who shall be chosen for the Year One Thousand seven Hundred and forty nine, shall on Oath take and lodge in the Secretary's Office by the last Wednesday of *May* One Thousand seven Hundred and forty nine, a true and perfect List, according to their best Skill and Understanding, and conformable to a List settled and agreed on by the General Court, and to be recorded in the Secretary's Office, a printed Copy thereof to be sent by the Treasurer to the Clerk of each Town and District, which has heretofore been assessed to the Province Tax, therein to set forth an Account of all Male Polls of sixteen Years old and upwards, whether at Home or Abroad, distinguishing such as are exempt from Rates through Age or otherwise, and of all Rateable Estates both Real and Personal within their respective Towns, and to whom the same belongs, and of all Indian, Negro and Molatto Servants, whether for Life or for a Term of Years, and of all Farms or Parcels of Land lying adjacent to and rated in such Town ; and an Account of what any Farm or House within the Town (that is improved by hire) Rents for by the Year, and who was the Occupant thereof in the Year One Thousand seven Hundred and forty eight ; also what Number of Vessels and of what Burthen, have sailed from their respective Ports to any other, except those in *New-England*, in the Year One Thousand seven Hundred and forty eight : And the said Assessors in taking such Valuation, shall distinguish the different Improvements of the

List of Polls and Estates to be lodged in the Secretary's Office.

Printed Form thereof to be recorded.

Direction to the Assessors in the Valuation.

[Z z z]

Real

Valuation of Eſtates.

Real Eſtate into the following Parts, *viz.* Houſes, Paſture and Tillage Land, Salt, Freſh and Engliſh mowing Land, with the Number of Acres of Orchard, and what Stock the Paſture ordinarily is capable of feeding, and what Quantity of Produce the ſaid Tillage, Mowing and Orchard Land yearly affords one Year with another; excepting the Governour, Lieutenant-Governour, Preſident, Fellows and Tutors of *Harvard-College*, ſettled Miniſters, and Grammar School-Maſters, with their Families, who for their Polls and Eſtates in their own actual Improvement ſhall be exempted out of this Act. And the ſaid Aſſeſſors before they enter on this Work ſhall take the following Oath, *viz.*

Form of the
Aſſeſſors
Oath.

YOU A. B. being choſen Aſſeſſors for the Town of B. for the Year One Thouſand ſeven Hundred and forty nine, do ſeverally ſwear, That you will faithfully and impartially according to your beſt Skill and Judgment do and perform the whole Duty of an Aſſeſſor, as directed and enjoined by an Act of this Province of the preſent Year, intituled An Act for inquiring into the Rateable Eſtate of the Province, without Favour or Prejudice.

So help you GOD.

Penalty for
refuſing the
Oath, or neg-
lect of Duty.

Which Oath (in ſuch Town where no Juſtice dwells) ſhall be adminiſtered by the Town-Clerk; and every Aſſeſſor who is choſen by any Town in the Year One Thouſand ſeven Hundred and forty nine, (accepting ſuch Choice) that ſhall reſuſe to take the ſaid Oath, or taking the ſame ſhall neglect or reſuſe to take the Liſt aforeſaid, or ſhall any Way prevaricate therein, ſhall for each of thoſe Offences forfeit and pay a Fine not exceeding *forty Pounds*. And every Perſon reſuſing or neglecting to give ſuch Aſſeſſor or Aſſeſſors a true Account of his Rateable Eſtate, Improvements or Rent agreeable to the true Intent of this Act, ſhall for each Offence forfeit and pay the Sum of *five Pounds*.

Penalty for
giving a falſe
Account of
Polls and E-
ſtate.

And in Caſe any Account given by any Perſon in Purſuance of this Act, ſhall be by the Aſſeſſor or Aſſeſſors taking the ſame, ſuſpected of Falſhood, it ſhall be in the Power of either of ſuch Aſſeſſors to adminiſter an Oath to the Truth of ſaid Account; and if ſuch ſuſpected Perſon ſhall reſuſe to Swear to the Truth of ſuch Account, according to his beſt Judgment when thereto required by any one of the Aſſeſſors, ſuch Reſuſal ſhall be deem'd a Reſuſal to give an Account of his Rateable Eſtate, and the Perſon ſo reſuſing ſhall be ſubject to the Fine in that Caſe by this Act provided, without further or other Evidence for his Conviction on Trial: And every Aſſeſſor ſhall be allowed out of the Treafury of his reſpective Town the Sum of *five Shillings* for every Day he ſhall be neceſſarily employed in taking the Liſts aforeſaid.

Aſſeſſors Pay.

Aſſeſſors to
give into the
Secretary's
Office a Liſt
for the Year
1748.

And be it further enacted, That the Aſſeſſors of each Town within this Province for the Year One Thouſand ſeven Hundred and forty eight, ſhall by the ſaid laſt Wednesday in *May* One Thouſand ſeven Hundred and forty nine, on Oath tranſmit to the Secretary's Office true and perfect Copies of their Province Tax Liſts for the Year One Thouſand ſeven Hundred and forty eight, on Penalty that each Aſſeſſor neglecting his Duty therein ſhall forfeit and pay the Sum of *twenty Pounds*.

Town of
Boston to be
excepted in
Caſe.

Provided, That the Town of *Boston*, if they find it impracticable to form ſuch a Liſt of Valuation, and ſo repreſent it to this Court at the Session in *May* next, ſhall be excuſed from the Penalty for ſuch Omiſſion, at the ſame Time laying before the Court, Copies of their Tax Liſts for the Year One Thouſand ſeven Hundred and forty eight.

Fines how to
be recovered
and applied.

All Fines and Forfeitures ariſing by this Act may be recovered by Bill, Plaint or Information, or by Action of Debt in any of his Maſteſty's Courts within this Province proper to try the ſame, and ſhall be applied two Thirds to him or them that ſhall inform or ſue for the ſame, and the other Third to his Maſteſty to and for the Uſe of this Government.

Partition of Lands.

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C H A P. X.

An Act for the more easy Partition of Lands.

WHEREAS the Partition of Lands is often delayed by Reason that the Parties concerned therein are very numerous, and live remote from each other, and sometimes in Parts beyond the Seas, and are some of them unknown, to the hindrance and retarding of the Improvement and Settlement of Lands in this Province : Preamble.
For Remedy whereof ;

Be it enacted by the Governour, Council and House of Representatives, That from and after the Publication of this Act any Person or Persons interested with any others in any Lot or Grant of Land, making Application (either by themselves or their lawful Agents Attorneys or Guardians) to the Superiour Court of Judicature, the said Court (whether then holden in the County where such Lands lie, or in any other County within this Province) is hereby authorized and impowred to cause Partition to be made of such Lands, with the Buildings thereon (if any such there be) and the Share or Shares of the Party or Parties applying for the same to be set off and divided from the rest ; such Partition to be made by five Freeholders under Oath (or the major Part of them) to be appointed by said Court, and a Return of such Partition to be made into the Clerk's Office of said Court, and the Partition or Division so made being accepted by the said Court, and there recorded, and also recorded in the Registry of Deeds in the County where such Estate lies, shall be valid and effectual to all Intents and Purposes.

Provided nevertheless, That before such Partition be made, where any Infants or Persons under Age, or *non compos mentis* are interested, Guardians shall be appointed for all such Persons according to Law, if they live within this Province : And if any Person or Persons interested in any such Estate happen (at the Time when such Application shall be made) to have been beyond Sea or out of this Province for the Space of one Year, and not expected to return into the same within the Space of six Months more, and have no sufficient Attorney within the same, that then and in such Cases the Justices of said Court shall appoint some discreet and indifferent Person or Persons as Agent or Agents for such absent Party or Parties, and on his, her or their Behalf to be advising in making such Partition, and due Notice to all concerned (that are known and within this Province) shall be given before such Partition be made, that so they may be present (if they see meet) at the Time of making the same. Exception where any Persons are *non compos* or out of the Province.

Provided also, That no Partition be made where any Partner shall be beyond Sea, and shall not have been absent twelve Months, or shall be expected to return within six Months ; any Thing in this Act to the contrary notwithstanding. Proviso.

Provided also, That if any Partner should have a larger Share set off than is such Partners true and real Interest, or if any Share set off should be more than equal in Value to the Proportion it was set off for, then and in every such Case, upon Complaint (to the Court which caused said Partition to be made) within three Years of the making thereof, by any aggrieved Partner or Partners, who at the Time of making such Partition were out of the Province, and not notified thereof as aforesaid in Time for them to be present at the same, the said Court shall cause a Partition thereof to be made *de novo*. Case where the Partition may be made *de novo*.

And in such new Partition so much and no more shall be taken off from any Share, as such Share shall be adjudg'd more than the Proportion of the whole it was design'd for, estimating such Lands as in their original State, or the State they were in when first divided ; and in Case any Improvements shall have been made on the Part that may by such new Partition be taken off as aforesaid, the Partner who made such Improvements shall have reasonable Satisfaction made them by the Partner or Partners to whose Share the same shall be added, by the Estimation of the Freeholders employ'd in making such new Partition, or the major Part of them.

Limitation.

This Act to continue and be in Force for the Space of seven Years from the Publication thereof, and no longer.

**An Act to prevent Damage being done on
on the Beach and Meadows in *Plymouth*
adjoining to said Beach, commonly
known by the Name of *Plymouth-Beach*.**

Preamble.

WHEREAS Persons frequently drive Numbers of Neat Cattle Horses and Sheep, to feed upon *Plymouth-Beach* and the Meadows adjoining to said Beach, whereby the said Beach is much broken, and the Seabreaks over it, and carries the Sand into the Harbour and upon the Meadows; and there is great Danger if such Practices are not prevented, that the Harbours in said Town will be intirely ruined, and the Meadows within said Beach utterly spoiled, to the great Damage of the Owners thereof:

No neat Cat-
tle Horses or
Sheep to be
turned on
*Plymouth-
Beach* or
Meadows.

Penalty.

Be it enacted by the Governour, Council and House of Representatives, That from and after the Publication of this Act, no Person or Persons shall presume to turn or drive on any Neat Cattle Horse-Kind or Sheep upon the Beach called *Plymouth-Beach*, or upon the Meadows adjoining, upon the Penalty of *ten Shillings* a-Head for Neat Cattle or Horses, and *three Shillings* for each Sheep that shall be turned or found on said Beach or Meadows; which Penalty shall be recovered by the Select-Men or Town-Treasurer of said Town of *Plymouth*, or any other Person that shall inform or sue for the same; the one Half of said Forfeiture to him or them that shall inform or sue for the same, the other Half to be to and for the Use of the Poor of said Town of *Plymouth*.

Creatures
turned on
said Beach &c
to be im-
pounded.

Owners
thereof to
pay a Fine
and Cost of
Relieving.

Creatures to
be sold in
Case.

And be it further enacted, That if any Neat Cattle, Horse-Kind or Sheep, shall at any Time be found feeding on said Beach Meadows or Shores adjoining to said Beach, that it shall and may be lawful for any Person to impound the same, immediately giving Notice to the Owner or Owners of the same, if known, otherwise to give publick Notice thereof in said Town of *Plymouth*; and the Impounder shall relieve said Creatures with suitable Meat and Water while impounded; and if the Owner thereof appear he shall pay *two Shillings and six Pence* for each Neat Beast or Horse-Kind, and *eight Pence* for each Sheep, and the reasonable Cost of relieving them, besides the Pound-keeper's Fees: And if no Owner appear within the Space of three Days to redeem the said Cattle Horse-Kind or Sheep so impounded, and to pay the Cost and Damage occasioned by impounding the same, then and in every such Case the Person or Persons impounding such Cattle, Horse-Kind or Sheep, shall cause the same to be sold at publick Vendue, and pay the Cost and Charges arising about the same (publick Notice of the Time and Place of such Sale being given in the said Town of *Plymouth*, and the two neighbouring Towns forty eight Hours before Hand) and the Over-plus (if any there be) arising by such Sale to be returned to the Owner or Owners of such Cattle, Horse-Kind or Sheep, at any Time within two Months next after such Sale, upon his demanding the same, but if no Owner appears within said two Months, then the said Overplus shall be one Half to the Person impounding, and the other Half to be returned to the Town-Treasurer of said Town of *Plymouth*, for the Use of the Poor of said Town.

Proviso.

Provided, That nothing in this Act shall be construed to prevent any of the Owner or Owners of said Beach or Meadows, or any improving under them, from turning on their Horses they ride, or Cattle improved in their Teams, to feed on said Beach or Meadows, while they are cutting or carting their Hay off said Beach or Meadows adjoining.

Officers to be
chosen to see
this Act
cut

And be it further enacted, That the said Town of *Plymouth* at their Meeting in *March* annually for the Choice of Town Officers, be authorized and empowered to chose one or more meet Person or Persons whose Duty it shall